



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2011-0926]

RIN 1625-AA09

Drawbridge Operation Regulation; Lafourche Bayou, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes changing the regulation governing six bridges across Bayou Lafourche, south of the Gulf Intracoastal Waterway (GIWW). Currently, these bridges remain closed to navigation at various times on weekdays during the school year. The Louisiana Department of Transportation and Development (LADOTD), in conjunction with the Lafourche Parish Council, would like to change the beginning date of the regulation to coincide with the change in the beginning of the school year. All other aspects of the regulation will remain the same. These changes will alleviate any confusion that the bridge tenders and mariners may have as to the bridge schedule now that the school year begins earlier than the regulation effective date.

DATES: Comments and related material must reach the Coast Guard on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2011-0926 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Jim Wetherington; Bridge Administration Branch, Eighth Coast Guard District; telephone 504-671-2128, e-mail

james.r.wetherington@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2011-0926), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you

include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rules" and insert "USCG-2011-0926" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2011-0926" and click "Search."

Click the "Open Docket Folder" in the "Actions" column.

You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the docket using one of the four methods specified under ADDRESSES. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

Basis and Purpose

The six draw bridges across Lafourche Bayou that are affected by this proposed rule are described as follows:

The SR 308 (Golden Meadow) Bridge, mile 23.9, at Golden Meadow; the Galliano Pontoon Bridge, mile 27.8, at Galliano; the SR 308 (South Lafourche (Tarpon)) Bridge, mile 30.6, at Galliano; the Cote Blanche Pontoon Bridge, mile 33.9, at Cutoff; the Cutoff Vertical Lift Bridge, mile 36.3, at Cutoff and the SR 310 (Larose Pontoon) Bridge, mile 39.1, at Larose.

The purpose of the underlying regulation is to implement a specific operating schedule that is effective only during the school year to accommodate the change in bridge traffic during the school year. Beginning in 2011, the school year started a full week before the regulation's current yearly start date and multiple complaints were received by the parish about the vessel traffic holding up the peak-time vehicle traffic. Vessel traffic in the area is accustomed to the restrictions effective during the school year. This proposed change, moving the effective date by approximately two weeks to accommodate the earlier start for the school year, will not unduly impact vessel traffic. The reason for the two week change is to ensure that we encompass any changes to the school start date in

the future. It will, however, revise the published bridge schedule to reflect its original intent. The Louisiana Department of Transportation and Development (LADOTD) and the Lafourche Parish council (each agency owning three of the bridges) would like to change the beginning date of the regulation from August 15 of each year to August 1 of each year. The purpose of this proposed change is to eliminate confusion and conflict between the current published schedule and changes in the school year, causing vessel traffic hold ups during the beginning of coming school years. All other aspects of the regulation will remain the same.

Discussion of Rule

The Coast Guard proposes changing the regulation in 33 CFR 117.465 (a) so that it reflects the intent of the current rule allowing the bridge to remain closed to vessel traffic during peak traffic times during the entire school year. The proposed change will make the beginning date for the restriction August 1 instead of August 15. This proposed change will only minimally affect vessel operators using the waterway. All other aspects of the regulation will remain the same.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866. The Office of Management and Budget has not reviewed it under that Order.

The Coast Guard does not consider this proposed rule to be a "significant" regulatory action because it is a merely a change in the start date for the restriction and does not further change existing or impose new restrictions affecting the way vessels operate on the waterway.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises

small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the bridges Monday through Friday except Federal holidays during the hours of 7 a.m. to 8:30 a.m., from 2 p.m. to 4 p.m. and from 4:30 p.m. to 5:30 p.m. from August 1 through August 14.

This action will not have a significant economic impact on a substantial number of small entities because the change only adds two weeks to the current regulation. The current rule has been in effect for these vessels and waterway users since 2006. This change extends the effective period for the known restrictions to coincide with the full school year, which was the original intent of this rule.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and

that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Mr. Jim Wetherington; Bridge Administration Branch, Eighth Coast Guard District; telephone 504-671-2128, e-mail james.r.wetherington@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action"

under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01, and Commandant Instruction M16475.1D which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.465 (a) to read as follows:

§ 117.465 Lafourche Bayou

(a) The draws of the following bridges shall open on signal; except that, from August 1 through May 31, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 7 a.m. to 8:30 a.m.; from 2 p.m. to 4 p.m. and from 4:30 p.m. to 5:30 p.m.:

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Dated: March 23, 2012

Roy A. Nash
Rear Admiral, U. S. Coast Guard
Commander, Eighth Coast Guard District

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